



MEMORANDUM

DEPARTMENT OF GAME AND FISH

TO: Commissioned Officers

FROM: Dan Brooks

DATE: November 20, 2003

RE: Public Land Management Stamp (Habitat Stamp) Enforcement

This memorandum is to provide enforcement direction to all officers for Title 19 Chapter 34 Part 6, NMAC, dealing with the public land user stamp. On January 31, 2002, this rule was amended in part to include:

No hunting, fishing or trapping license used on Forest Service and/or Bureau of Land Management lands shall be valid unless a Public Land Management Stamp is purchased, possess or affixed as prescribed by 19.34.6.8 and 19.34.6.9 NMAC.

This means that any person who is hunting on Forest Service or BLM lands (except Unit 28) without having in possession a Public Land Management Stamp (Habitat Stamp) is unlawfully hunting. If a person, while hunting or fishing on forest or BLM land, does not possess a valid habitat stamp an officer should charge the person with unlawful hunting in violation of statute 17-2-7, referencing 19.34.6.9(D) NMAC 1978. The essential facts should read something similar to: *Subject was unlawfully hunting or fishing (pick the proper one) on land under the authority of the BLM or Forest Service (pick the proper one) without a habitat stamp as required by commission regulation 19.34.6. (D) NMAC.*

The fact that the license is not valid brings up another issue. What do you do if the person is unlawfully hunting because he or she is without a habitat stamp and then kills or takes a game animal or fish? As officers, you always have the latitude to charge a person for unlawful hunting or fishing should the elements of the crime become apparent to you; however, I believe it is unreasonable to confiscate the game or fish held for not buying a \$5.00 stamp. It is much more reasonable to issue a citation or charge an individual with this infraction and let the magistrate determine the extent of the punishment as allowed by law. To maintain policy and common practice, you may seize the animal and receipt it back to an individual as proof that he or she was actually hunting or fishing.

If you have any questions, please don't hesitate to call.

DB/bc